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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/571,221	01/29/2007	Ermanno Filippi	9526-82 (184185)	8993
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AKERMAN SENTERFITTT P.O. BOX 3188 WEST PALM BEACH, FL 33402-3188				
EXAMINER				
LEUNG, JENNIFER A				
ART UNIT		PAPER NUMBER		
1797				
NOTIFICATION DATE		DELIVERY MODE		
09/22/2009		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

ip@akerman.com

Office Action Summary

Application No.

10/571,221

Applicant(s)

FILIPPI ET AL.

Examiner

JENNIFER A. LEUNG

Art Unit

1797

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 June 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 2 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 2 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SE/US)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

1. Applicant's amendment filed on June 5, 2009 has been considered. The changes made to the Specification are acceptable. Claims 1 and 2 are under consideration.

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims 1 and 2 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-12 of copending Application No. 10/566,120 (PG-PUB US 2006/0275190) in view of Vu et al. (US 5,030,789).

This is a provisional obviousness-type double patenting rejection.

Application No. 10/566,120 similarly claims an axial pseudo-isothermal chemical reactor comprising a substantially cylindrical shell, said shell defining a reaction zone for conducting a heterogeneous chemical reaction and containing a plurality of coil heat exchangers (see claim 1). The heat exchangers are arranged within the substantially cylindrical shell according to the instantly claimed configuration (see claims 10-12, which define the arrangement illustrated in FIG. 7. The figure is identical to FIG. 4 of the instant application).

Application No. 10/566,120, however, fails to claim a plurality of flat, boxed, plate-shaped heat exchangers, having the shape of a parallelepiped with vertical long sides.

Vu et al. teaches a conventional heat exchanger comprising flat, boxed, plate-shaped heat exchangers, having the shape of a parallelepiped with vertical long sides (see FIGs. 1, 2 and 4A-4C; column 4, lines 42-45; column 8, lines 47-65).

It would have been obvious for one of ordinary skill in the art at the time the invention was made to substitute the flat, boxed, plate-shaped heat exchangers of Vu et al. for the coil heat exchangers in Application No. 10/566,120, for the reason of the various advantages described by Vu et al. (see, e.g., column 2, lines 22-29). Furthermore, the substitution of known equivalent structures involves only ordinary skill in the art, and when the prior art that is altered by the mere substitution of one element for another known in the field, the combination must do more than yield a predictable result.

Response to Arguments

3. Applicant's amendment has overcome the rejection of claims 1 and 2 under 35 U.S.C. 103(a) as being unpatentable over Muenger (US 3,666,423) in view of Vu et al. (US 5,030,789).

As noted in Applicant's arguments, Muenger fails to disclose or adequately suggest the

claimed chemical reactor, wherein all of the heat exchangers supported in the reaction zone are identical, flat, boxed, plate-shaped heat exchangers, with each having vertical long sides and short sides arranged according to the specifically claimed configuration.

4. Applicant's amendment has overcome the rejection of claims 1 and 2 under 35 U.S.C. 103(a) as being unpatentable over Schneider (US 3,156,538) in view of Vu et al. (US 5,030,789).

As noted in Applicant's arguments, Schneider similarly fails to disclose or adequately suggest the claimed chemical reactor, wherein all of the heat exchangers supported in the reaction zone are identical, flat, boxed, plate-shaped heat exchangers, with each having vertical long sides and short sides arranged according to the specifically claimed configuration.

5. The provisional rejection of claims 1 and 2 on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-12 of copending Application No. 10/566,120 (PG-PUB US 2006/0275190) in view of Vu et al. (US 5,030,789) has been maintained, since a Terminal Disclaimer has not yet been filed.

Conclusion

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

* * *

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JENNIFER A. LEUNG whose telephone number is (571) 272-1449. The examiner can normally be reached on 9:30 am - 5:30 pm Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Walter D. Griffin can be reached on (571) 272-1447. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jennifer A. Leung/
Primary Examiner, Art Unit 1797